IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

Crl.MC.No. 1098 of 2007()

CC.525/2005 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

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PETITIONER/ACCUSED

REYAS USMAN, PROPRIETOR
UNIVERSAL TRAVEL ENTERPRISES, M.R.A.A 70, KANJIRAMPARA
THIRUVANANTHAPURAM

BY ADV. SRI.V.AJAKUMAR
SRI.T.M.CHANDRAN
SRI.V.A.SASIDHARAN
SRI.JOSEPH ALBIN NEDUNTHALLY

RESPONDENTS/COMPLAINANT AND STATE

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1. PETER MARYDASAN, M.S.VILLA, THATTARAMBALAM
MAVELIKKARA

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

BY PIBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1098 OF 2007

Dated this the 4th day of April, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the N.I. Act. When the matter was posted to 17/2/07, the petitioner was not present. An application was filed on his behalf by his counsel. That application was rejected. Non-bailable warrant of arrest has been issued. The order sheet suggests that some payment was contemplated on that day and such payment was not made. The petitioner now finds a warrant of arrest issued by the learned Magistrate chasing him. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the

petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge